

REMARKS

The last Office Action has been carefully considered.

Claims 1-6, 9-12, 16-21 and 24-27 are rejected under 35 U.S.C. 103(a) over the patent to Tuer in view of the patent to Cameron.

Claims 7, 8, 22, and 23 are rejected under 35 U.S.C. 103(a) over the patent to Tuer in view of the patents to Cameron and McNitt.

Claims 13-15 and 28-30 are rejected under 35 U.S.C. 103(a) over the patent to Tuer in view of the patents to Cameron and Buhler.

Claims 33-40 are rejected under 35 U.S.C. 102(a) over the patent to Tuer.

Also, the disclosure is objected to and the claims are objected to for formal reasons.

In connection with the Examiner's formal objections, the specification and the claims have been amended correspondingly.

After carefully considering the Examiner's grounds for the rejection of the claims over the art, applicant has cancelled original claims and submitted new claims. The independent claims currently on file more clearly define the present invention and to distinguish it from the prior art.

Before the analysis of the prior art it is believed to be advisable to explain the new features of the present invention as defined in the claims.

In the system and the method for manufacturing a personal golf putter defined in claims 41 and 56, in the putter defined in claims 71 and 73, and in the system for and the method of training a golf player defined in claims 75 and 77, the initial putter has a serial number which, for the corresponding inventions defined in the corresponding claims is transmitted with each swing data.

When the system and method for manufacturing a personal golf putter defined in claims 41 and 56 include this feature the following advantages are provided. Serial number together with swing data and other data related to the factory settings of the initial putter wirelessly communicated to the computer is an integral part of the total personal putter custom fitting program. Serial number is the electronic signature giving the

initial putter its identity, and it is in the heart of manufacturing of the personal putter of the invention, to produce updating and to the use of the initial putter as a training device. The present invention deals with a potential of tens of thousands of putters in a few years sold and are in the field. To support this with minimal personnel, the proprietary electronic serial number wirelessly transmitted with the swing data from the initial putter and used in management of manufacturing, sales, and customer support and in golf training area.

Swing data based on several swings of an individual golfer together with the serial no. of the initial putter from teaching professional is received via internet transmission or other means at the putter manufacturing and design center. The characteristics of the initial putter and the swing data together with the comments from the teaching professional is then taken into consideration to manufacture the personal putter.

Serial number is a putter's identity given to an initial putter-electronic-hardware and software at the time of manufacture is recorded in data base, data of manufacture, quality control and final performance data as collected wirelessly by computerized robotic swing machine in the final testing prior to packaging for inventory. The data is stored in permanent

record file over the internet to a designated remote desktop web server and can be retrieved any time using the serial number to custom build a personal putter.

Personal putter is manufactured as per data received from the initial putter. Several putting strokes data and statistical analysis of the data together with the serial number of the initial putter - Lie and loft angles, putter shaft characteristics and other data related to an individual's swing characteristic are taken into account by the design technician and personal putter is manufactured accordingly.

Production technician then enters by typing on the keyboard in a proprietary configured Excel spread sheet, in specific data fields all the details related to the personal manufactured putter, e.g., putter head type and its weight, putter shaft length and its weight, lie and loft angles, etc. All these parameters together with test data are characteristics of the personal putter and are associated to the serial number assigned to a personalized putter. By Serial Number the data is stored in remote desktop connected via internet, or a local computer.

On completion of the data entry as typed in by the production technician, technician's user code is entered in the data base and, our proprietary software (Excel-Spread-Sheet based) automatically prints an array of bar code labels, using the commercially available UPC (Universal Product Code) format.

At the moment, to ensure reliability in inventory control, bar-code label is attached to the putter as it is removed from the robotic test fixture and packaged. Another bar code label from the same array is attached to the outside of the packing material and as necessary to other paperwork travelers used in manufacturing. Bar code labels are then used in inventory control, sales and to customer/serial no. association at point of sale. A personal putter is shipped to the customer.

When the putter defined in claims 71 and 73 includes this feature when the initial putter is sold to a professional golf instructor, at the Point of Sale; association between the Instructor and the selected initial putter is made by the use barcode label (serial number). Sales clerk will scan the UPC code on the package - this action reads the packaged putter's serial number and it becomes part of the sales transactions. It is standard sales routine at commercial point of sale terminals, customer sales receipts

are printed with a note of putter's serial number, address, etc. It is here, the initial putter and the golf professional association is established.

When the customer - golf professional, receives the initial putter, to activate the initial putter and to load software to golfer's computer, golfer is instructed to log-on to the www.visvivagolf.com website. To log-on...serial number associated with the initial putter and Golf professional's name is necessary for verification. Upon verification, golfer is enabled to download software. In this initial Putter activate phase-parameters of interest- user related information - e.g. data related putter head mass, shaft length and etc is downloaded in the customer's computer and the software in the initial putter is updated and activated via computer to Putter wireless Bluetooth connection. Now the initial putter and computer have the software necessary for processing swing related data, e.g. moment of inertia acceleration lie and loft angles etc. and the initial putter is activated. Golfer, or Golf professional at any time can download software updates by visiting our website - serial no and customer name is necessary for Log-On to download software upgrades to maintain the initial putter current to latest advances in the technology as offered by the company.

During the software-download phase, from the website to the putter, the proprietary software written to facilitate the download will interrogate the putter and computer data base and obtain data related to the condition of the putter and its swings statistics, this data together with serial number is transmitted to the website where it is compared with the original factory set data at manufacturing for analysis. Appropriate Comments are communicated to the golfer over the internet as part of our customer support.

During the periodic software downloading phase, the data is collected from the putters in the field and are transmitted to designated website automatically. Quality performance analysis from the field is performed using the field data and management reports are generated to provide data to management to take steps to further improve on its technology.

Serial no. is critical part of the system architecture considering that we anticipate monitoring and providing customer support to few tens of thousands of initial putters units in the field.

When the system for and the method of training a golf player defined in claims 75 and 77 include this feature, the following advantages are provided. The system enables training remotely. Teaching professionals using this technology will provide on line instructions to multiple golfer students who wish to be golf professionals. Data transmitted on-line will have both swing data and serial numbers. Serial numbers provide the identity of the golfer and the characteristics of the initial putter. Serial numbers ensure that golfers data is not mixed with those of other golf professionals. Swing data can be stored on remote desk-tops by serial numbers. Golf professionals can provide instructions and drills more accurately to golfers and serial number is part of ensuring the swing data is not corrupted or mixed with other golfer's swings.

The above mentioned new feature of the present Invention is not disclosed in any of the references applied by the Examiner against the original claims. As for the anticipation rejection applied by the Examiner against some claims, it is believed to be advisable to cite the decision in re Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the references do not teach each and every element of the above listed claims, and in particular the feature of the serial number. Therefore, it is believed that the anticipation rejection should be considered as not tenable with respect to the above listed claims and should be withdrawn.

As for the obviousness rejection applied by the Examiner, since none of the references teaches the new features of the present invention as defined in the above listed claims, it is just impossible to arrive at the present invention as a matter of obviousness, but instead the references have to be fundamentally modified by including into them the new features which are now defined in the above listed claims. However, it is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has been consistently upheld by the U.S. Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; it is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Also, as explained herein above, the present invention also provides for the highly advantageous results which can not be accomplished by the solutions proposed in the references. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case *Ex parte Tanaka, Marushima and Takahashi* (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is respectfully submitted that the above listed claims should be considered as patentably distinguishing over the art and should be allowed.

Claims 41 and 56 additionally define that in the inventive system and method for manufacturing a personal golf putter, the personal golf putter is made with corresponding parameters obtained with the use of

interior sensing means, data collecting and processing means, and transmitting means incorporated in the putter.

The patent to Tuer teaches the corresponding interior means; however, it does not produce any final personal putter with the use of such interior means incorporated in the putter.

The patent to Cameron produces a customized club; however, he produces the final club based on parameters, sensed, collected and transmitted by exterior means not incorporated in the putter.

None of these two references teaches producing a final customized putter based on data obtained by interior electronic means incorporated in the initial putter, and this feature can not be considered as obvious from the patents to Tuer and Cameron.

It can not be considered as obvious to combine these references because the patent to Tuer deals with interior electronic means, while the patent to Cameron deals with exterior electronic means. If one combines these two references, at least one of the references should be completely destroyed to produce a combination. If a person skilled in the art

makes an attempt to combine a putter with interior electronic means and a putter with the exterior electronic means, one of these means (either interior, or exterior) have to be eliminated. Therefore, the combination can not be considered as logical, obvious for a person of ordinary skill in the art, and even physically possible.

It is therefore believed that this feature defined in claims 41 and 56 also clearly and patentably distinguishes the present invention as defined in over the prior art, and therefore this additional argument for the allowability of claims 41 and 56.

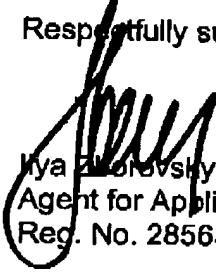
As for the dependent claims, these claims depend on the corresponding independent claims, they share their presumably allowable features, and therefore it is respectfully submitted that they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in

formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-243-3818).

Respectfully submitted,



Ilya Zverevsky
Agent for Applicant
Reg. No. 28563